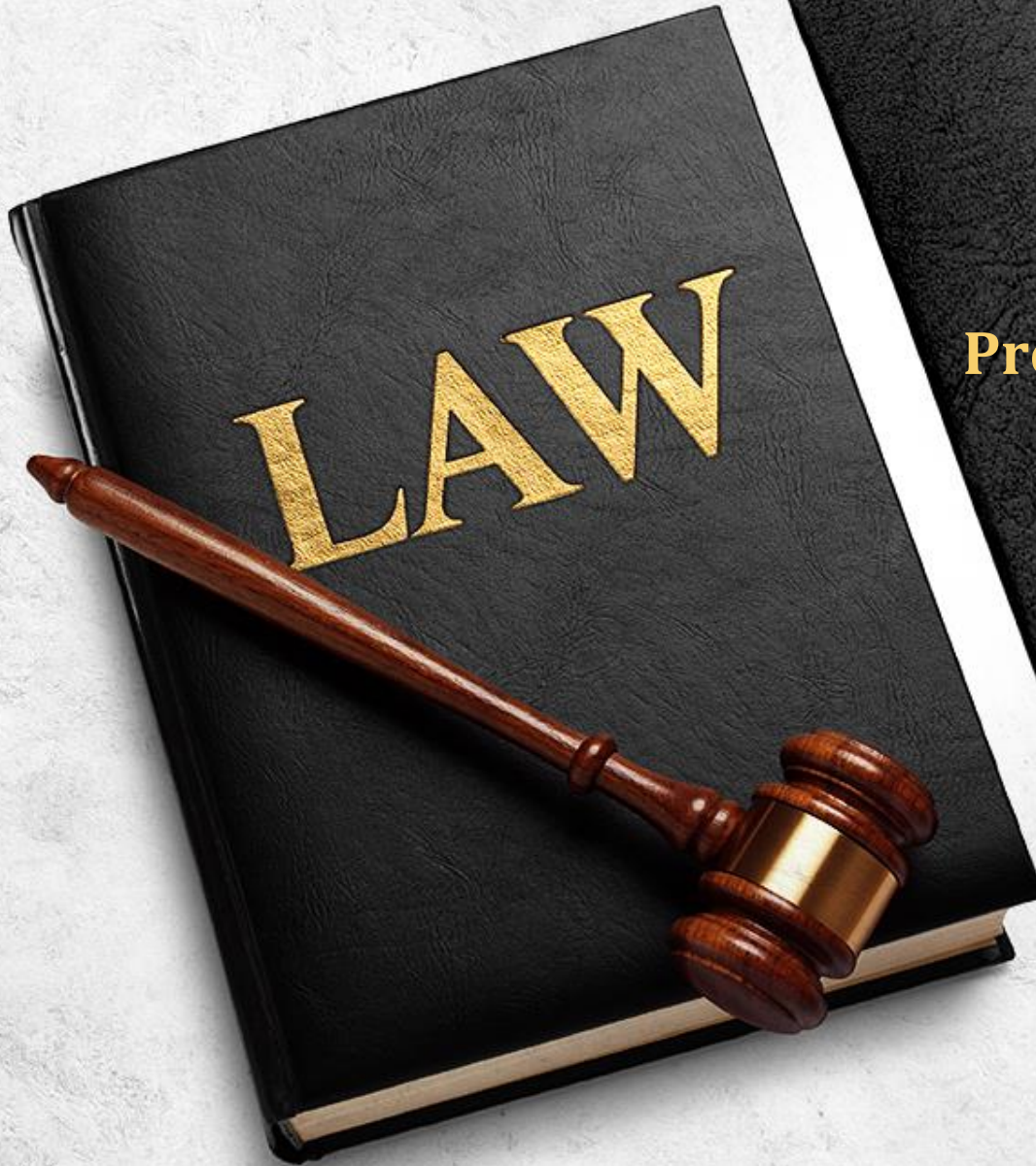


Legal Ethics

Lecture 01

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Syllabus / General Housekeeping

- **RED BUTTON ALERT!**
- Class Preparation
- My Slides
- Participation
 - Easier and more fun to attend class than not
 - You are Adults!
 - I CARE, but I don't care...
- Weekly Interactions
- Assignments
- Exams
 - Answer the darn question! (Multiple choice)
 - Easy as ABC!
 - Analysis
 - Brevity
 - Clarity
- Assignments and Exam Questions are about people – write about them!



Discussion “Rules of the Road”

- Chat pod “Do’s and Don’ts”
 - **DON’T**
 - Go “off topic” – lecture time is for learning, not for side conversations
 - Get personal – while we are all fascinated that you are taking a cruise to Bimini in four months, it can wait until after class. Don’t use “I” or “Me” any more than necessary
 - Make “Sweeping Pronouncements” – for example, “That is illegal”. If you make one of these, be prepared for me to call you on it.
 - Try to impress me or “suck up” – your grade won’t change
 - Be sarcastic unless you are clearly being sarcastic – no one can see your facial expression or hear your tone. I have no choice but to take you literally in the chat pod if you leave any room for doubt
 - Be THAT STUDENT – The one that whines because she made a 97 instead of 100 on an exam



Discussion “Rules of the Road”

- Chat pod “Do’s and Don’ts”
 - **DO**
 - Ask questions that are “on point” – I try to answer as we go
 - Respond in the chat pod when I ask you a question – I do and will ask
 - Try to “**Meet BOB**”
 - Bring popcorn – I LOVE to use movie and TV clips
 - Bandwidth and technical issues
 - Profanity



HAVE FUN!

Introduction to Legal Ethics

- Ethics rules are very comprehensive and strict;
- Rules apply to law firms and legal practices; BUT
- They are generally enforced by state bar associations, who only have jurisdiction over lawyers, not paralegals
- Except that:
 - Some ethical violations may also be criminal violations
 - Unauthorized practice of law is a crime in all jurisdictions
- Basic concerns of the legal ethics rules:
 - Preserve the Adversary System (“even guilty people are entitled to a fair trial”)
 - Preserve the attorney-client relationship
 - Preserve the integrity of the process
 - Preserve the search for the truth



The Development of Standards of Professional Conduct

- Standards are developed in a variety of ways
 - State and local court rules
 - Decided cases
 - Ethics opinions
 - ABA publications
 - Regulations of federal agencies



Sources of Legal Ethics Authority

- ABA Canons of Ethics (1908)
- ABA Model Code of Professional Responsibility (1970)
- ABA Model Rules of Professional Conduct (1983, as amended)
- ALI Restatement Third, The Law Governing Lawyers (2000)
- ABA Model Code of Judicial Conduct (2010, as amended)



Structure of the Model Rules

- Structure of the Model Rules
 - The Model Rules are divided into three sections, including (1) the Preamble, Scope, and Terminology; (2) the Rules; and (3) the ABA's Comments to the rules.
- Preamble and Scope
- The Rules
- The ABA's Comments
- Mandatory v. Permissive Language of the Rules



Jurisdiction to Promulgate and Enforce

- State Courts
 - Have no jurisdiction to discipline legal professionals for violating the ethical rules
 - Can become involved if there has been a crime or tort committed
- State Bar Associations
 - States require all lawyers to join
 - Develop or adopt ethical codes
 - Run disciplinary proceedings and can discipline lawyers
 - Have full jurisdiction over all lawyers in the state



Jurisdiction to Promulgate and Enforce

- Voluntary Bar Associations
 - Have no authority to do anything binding on anyone
- American Bar Association
 - Have written the *“Model Rules of Professional Conduct”* which many states have adopted as their own code of ethics
 - Has no actual authority; but many states require a degree from an ABA approved law school to take their bar exams
 - Has no jurisdiction whatsoever over the paralegal industry

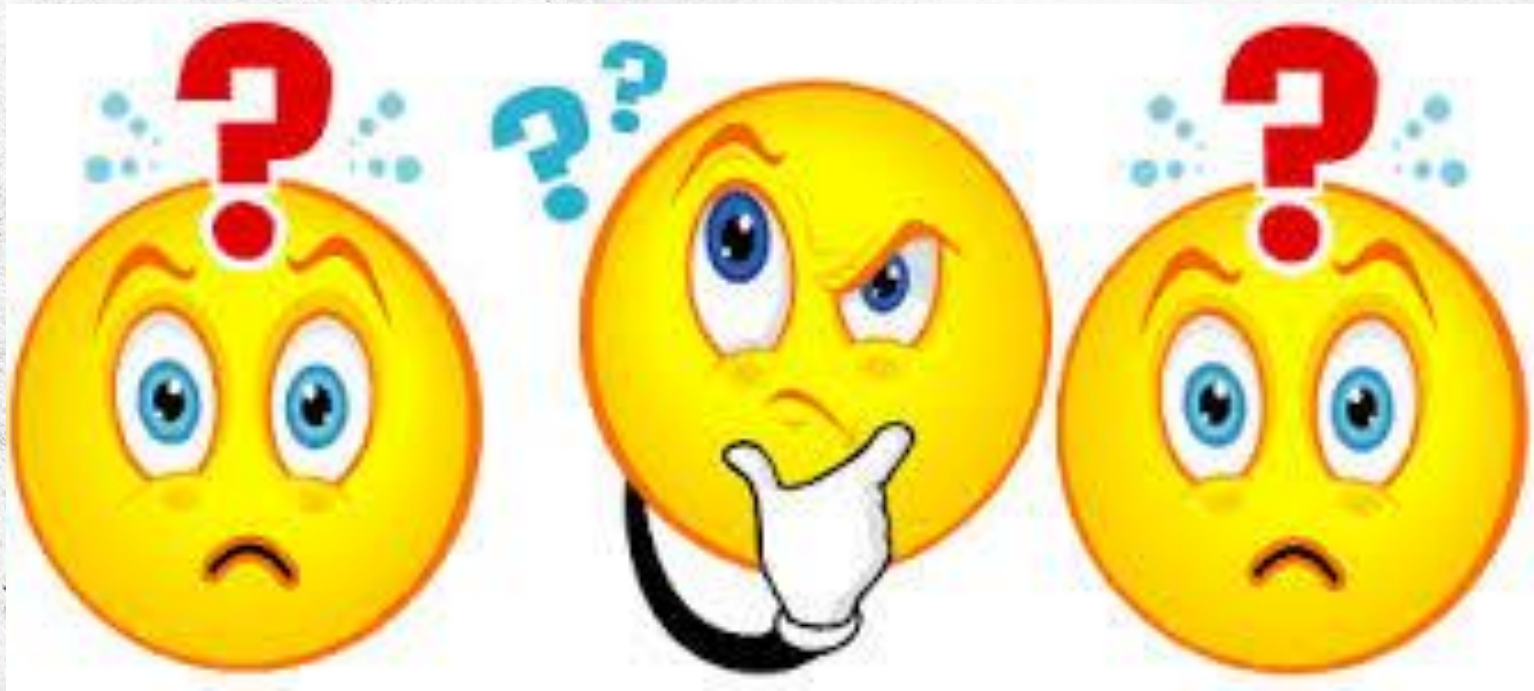


Discipline for Legal Professionals

- Methods available for disciplining attorneys by state bar association
 - Private Censure (also known as “reprimand”)
 - Public Censure
 - Suspension
 - Disbarment
- Other Consequences of Malfeasance
 - Monetary sanction by a court
 - Contempt of court
 - Criminal liability, if applicable
- Civil Liability for Malpractice
 - Requires:
 - Proof of malpractice; AND
 - Causation (would have won the case if not for the malpractice)



Quick Quiz



General Duties of the Legal Professional

- Duty to follow the ethical rules
- Duty to refrain from getting around the ethical rules by using a non-lawyer
- Duty to supervise subordinates (overseers can be disciplined for ethical missteps of subordinates if those were due to an failure of proper oversight)
- Duty to avoid committing serious crimes or crimes that reflect on trustworthiness even *outside the practice of law*
- Duty to report misconduct of others



Contribution of Moral Philosophy to the Study of Legal Ethics

- Can one maintain the distinction between role ethics and personal ethics?
- What is the difference between morals and ethics?
- What does society want from people they call lawyers?
 - Atticus Finch?
 - Denny Crane?
 - Ben Matlock?
 - Vincent Gambini?



Are The Rules Complete?

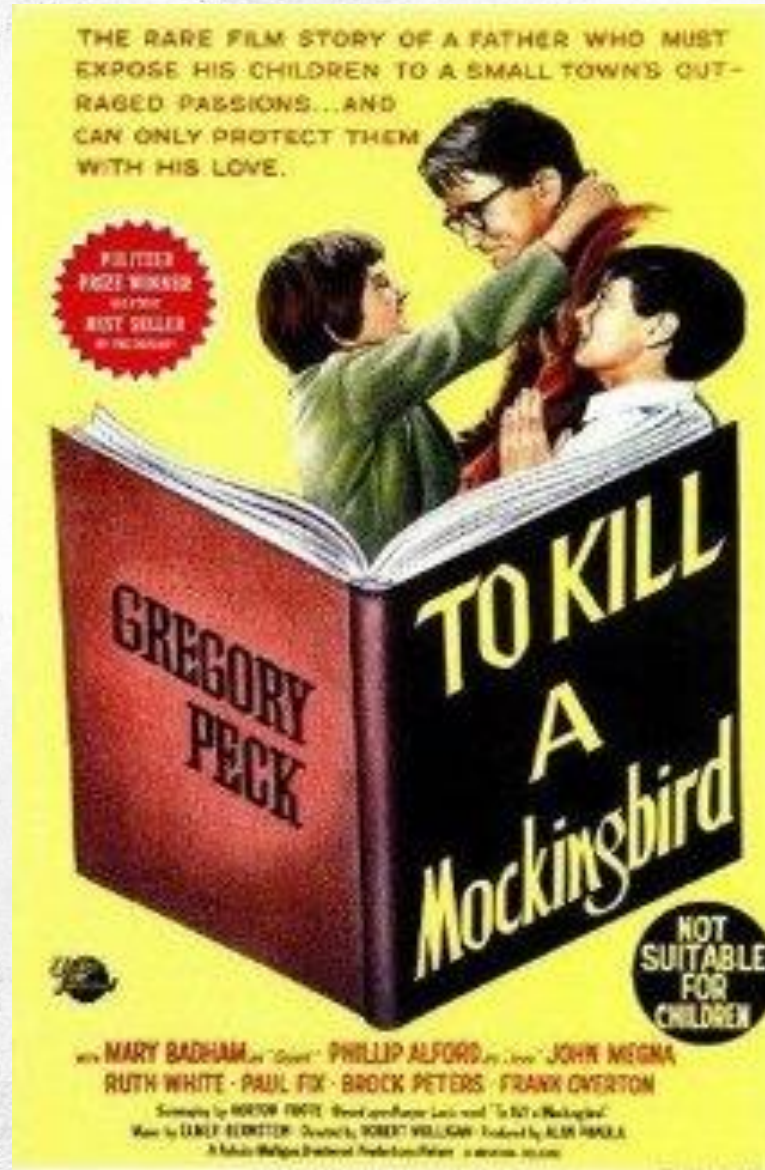
- Comment 16 in the Scope section of the 2002 Model Rules says it best.
- The Rules do not “exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law”.
- Over the next two months, we will study this framework and develop skills that we can use in the future to determine the boundaries and obligations of ethical legal practice.



To Kill A Mockingbird (1962)

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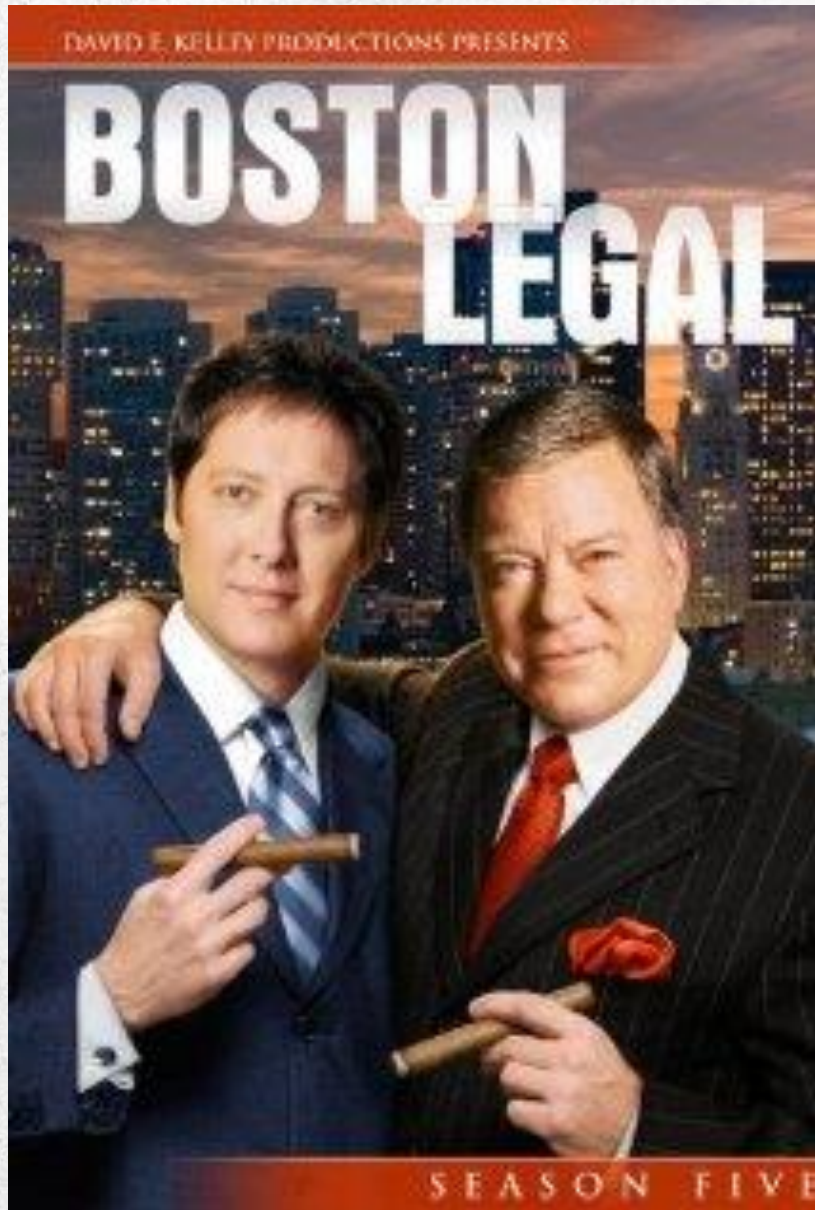
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Boston Legal (Season 01)

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Matlock (1986-1995)

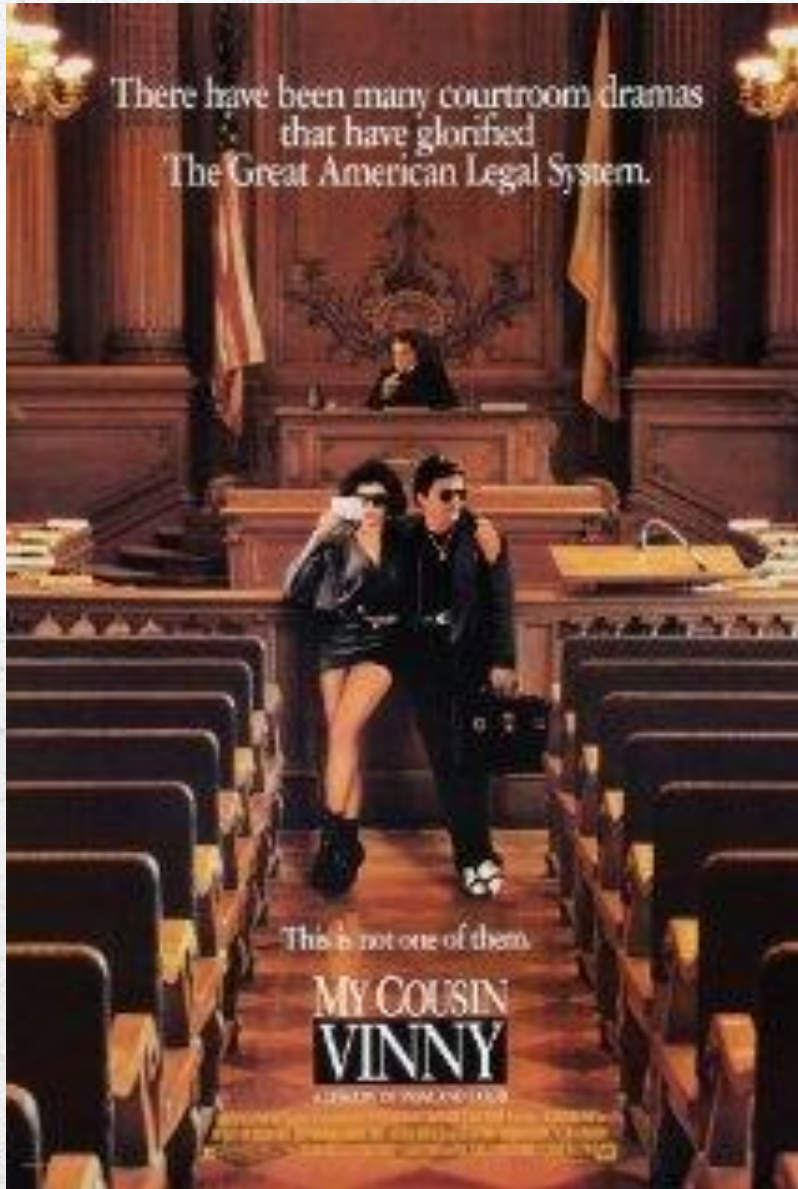
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My Cousin Vinny (1992)

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Who Would You Hire?



End Of Class Review Quiz

**THE
BIG
QUIZ**



The End

